

Notice of Allowability

Application No.

09/801,221

Examiner

Anne-Marie Falk, Ph.D.

Applicant(s)

SANBERG ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after final amendment filed 8/21/06.
2. ☒ The allowed claim(s) is/are 90 and 125.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Anne-Marie Falk
ANNE-MARIE FALK, PH.D.
PRIMARY EXAMINER

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EXAMINER'S AMENDMENT

The after final amendment filed August 21, 2006 has been entered. Claim 90 has been amended. Claims 94, 95, and 124 were cancelled. Claim 125 was newly added.

Claims 90 and 125 are pending in the instant application.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Barbara Luther on September 11, 2006.

The application has been amended as follows:

In the Claims:

90. The method of claim 125, wherein the retinoic acid is selected from the group consisting of 9-cis retinoic acid, all transretinoic acid and a mixture thereof.

125. A method of producing an isolated, differentiated, mononuclear cell from human umbilical cord blood, comprising:

- a) obtaining a cord blood fraction comprising mononuclear cells from said umbilical cord blood, wherein the mononuclear cells comprise progenitor cells;
- b) growing the mononuclear cells in a serum-free medium comprising EGF and bFGF to produce an enriched fraction of progenitor cells; and

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c) culturing the enriched fraction of progenitor cells in a culture medium containing an effective amount of retinoic acid and ~~NGF~~ nerve growth factor (NGF) for a period sufficient to differentiate the progenitor cells to cells bearing neural progenitor markers.

The following is an examiner's statement of reasons for allowance:

The rejection of Claims 90, 94, 95, and 124 under 35 U.S.C. 112, first paragraph, for new matter, is withdrawn in view of the cancellation of Claims 94, 95, and 124 and amendment to Claim 90 to now depend from newly added Claim 125.

The rejection of Claims 90 and 124 under 35 U.S.C. 112, first paragraph, for lack of enablement over the full scope, is withdrawn in view of the cancellation of Claim 124 and amendment to Claim 90 to now depend from newly added Claim 125.

The rejection of Claims 94 and 95 under 35 U.S.C. 112, first paragraph, for lack of enablement, is withdrawn in view of the cancellation of Claims 94 and 95.

The rejection of Claims 90, 94, 95, and 124 under 35 U.S.C. 112, second paragraph, for indefiniteness, is withdrawn in view of the cancellation of Claims 94, 95, and 124 and amendment to Claim 90 to now depend from newly added Claim 125.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Upon entry of the above amendment, Claims 90 and 125 are allowable.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent

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Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days.

Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne-Marie Falk whose telephone number is (571) 272-0728. The examiner can normally be reached Monday through Friday from 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached on (571) 272-0735. The central official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Anne-Marie Falk, Ph.D.


ANNE-MARIE FALK, PH.D
PRIMARY EXAMINER